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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/672,117

09/26/2003

Gregory P. Doten

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06/14/2007

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EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No.	Applicant(s)	
	10/672,117	DOTEN ET AL.	
	Examiner	Art Unit	
	Nihir Patel	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03.29.2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-34 abd 41-57 is/are pending in the application.
- 4a) Of the above claim(s) 34-40 and 45-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-33 and 41-43 is/are rejected.
- 7) ☒ Claim(s) 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09.26.2003</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of **Group II (claims 30-33 and 41-44)** in the reply filed on March 29th, 2007 is acknowledged.

Claims **45-57** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 14th, 2007.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims **30-33** are rejected under 35 U.S.C. 102(b) as being anticipated by Joseph (US 5,646,352).
4. As to **claim 30**, Joseph discloses method and apparatus for measuring a parameter of a multiphase flow that comprises method step of selecting a coupling member **14 (see figure 3 and column 3 lines 60-65)**, and a sensor housing **12 (see figure 3 and column 3 lines 60-67 and column 4)**; assembling the coupling member and sensor housing (**see figure 3 and column 4 lines 10-20**); and positioning the coupling member and sensor housing adjacent the conduit (**see figure 3**).

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5. **As to claim 31**, Joseph discloses a method step of selecting a closure mechanism, the closure mechanism conforming to the outer diameter and cross sectional shape of the conduit; and attaching the closure mechanism to the coupling to encircle the conduit (**see figure 3**).
6. **As to claims 32 and 33**, Joseph discloses a method step of positioning the coupling member using a positioning tool (**see column 5 lines 35-45**).
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims **41-43** are rejected under 35 U.S.C. 102(e) as being anticipated by Joswig et al. (US 6,260,416).
9. **As to claim 41**, Joswig discloses a device for measuring and/or detecting the internal pressure of Lumens of flexible tubes that comprises method step of aligning the implantable flow probe in a desired position with respect to the blood vessel (**see column 2 lines 1-10 and lines 45-60**), and adjusting a size of the probe to achieve a close fit with the blood vessel to hold the flow probe in the desired position with respect to the blood vessel (**see column 2 lines 1-10 and lines 45-60**).
10. **As to claim 42**, Joswig teaches a method step of adjusting a size of the probe that includes changing a diameter of the blood vessel (**see column 2 lines 1-10**).
11. **As to claim 43**, Joswig teaches a method step of adjusting the size of the probe to partially encircle an exterior of the blood vessel and achieve a close fit with the blood vessel (**see**

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column 2 lines 1-10), and aligning the implantable flow probe in a desired position with respect to the exterior of the blood vessel (**see column 2 lines 1-10 and lines 45-60**).

Allowable Subject Matter

12. Claim **44** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach a method step of connecting the coupling member to the sensor housing to form a structure such that an outwardly facing surface of the coupling member is received by an inwardly facing surface of the sensor housing; positioning the structure encircle the blood vessel such that an inwardly facing surface of the coupling member closely fits with the exterior of the blood vessel and coupling a closure mechanism to the structure such that a combination of the structure and the closure mechanism encircles and closely fits with the exterior of the blood vessel.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

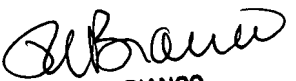
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Nihir Patel


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6/11/07